INSURANCE—"COMPLETE AND PERMANENT LOSS OF THE SIGHT OF BOTH EYES"—COLOR-BLINDNESS.—The insured, a railway trainman, was a member of the defendant fraternal insurance association. A by-law of the association provided that "any member * * * who shall suffer the complete and permanent loss of sight of both eyes shall be considered totally and permanently disabled and shall be entitled to receive * * * the full amount of his beneficiary certificate, but not otherwise." The eyes of the insured became afflicted with color-blindness, and he was on that account discharged from the railway company. Action was brought against the defendant under the above provision. *Held*, the plaintiff may recover. *Routt* v. *Brotherhood of Railway Trainmen* (Neb.), 165 N. W. 141.

The provisions of an insurance policy covering the loss of a member of the body have been construed to mean the loss of the use of such member. Thus, where a man received an accidental gunshot wound in the spine, resulting in the paralysis of the lower limbs, he was allowed to recover under a policy insuring against the loss of both feet. *Sheamon* v. *Insurance Co.*, 77 Wis. 618, 46 N. W. 799, 20 Am. St. Rep. 151, 9 L. R. A. 685. And one insured against "loss by physical separation, of the hand at or above the wrist joint" was allowed to recover for the loss of three fingers and half the palm, although the hand was not amputated. *Beber* v. *Brotherhood of Railroad Trainmen*, 75 Neb. 183, 106 N. W. 168, 121 Am. St. Rep. 782. Some courts have held that there is a loss of the member, if such member is so injured as to prevent the insured from following his usual and accustomed occupation. Where one insured against the "total and permanent loss of eyesight" received an injury resulting in the total and permanent loss of the sight of one eye, on account of which he lost his position, he was allowed to recover under the policy. *Maynard* v. *Locomotive, etc., Ass'n*, 16 Utah 145, 51 Pac. 259, 67 Am. St. Rep. 602. And, upon the same principle, a railway night switchman, who was guaranteed sick benefits in case of inability to work by reason of sickness or accidental injury was allowed to recover because he had become color-blind, and was unable to perform the duties of a switchman. *Kane* v. *Chicago, B. & Q. R. Co.*, 90 Neb. 112, 132 N. W. 920.

On the other hand, where the terms of the policy are so clear as to admit of no doubt as to their meaning, the courts will generally deny recovery, even though the circumstances be such as should have been contemplated by the parties. Accordingly, where the policy covers the breaking of both bones between the knee and ankle joints, the breaking of one bone and the severance of the malleolus process of the other does not entitle the insured to a recovery. *Peterson* v. *Brotherhood of America*, 125 Iowa 562, 101 N. W. 289, 67 L. R. A. 631. And where a physician was insured against the loss of either foot, a spinal injury which did not prevent him from calling on patients, but resulting only in an inability to use his foot, was denied a recovery. *Stever* v. *People's, etc., Ass'n*, 150 Pa. St. 132, 24 Atl. 662, 16 L. R. A. 446. And where a by-law of an association provided that "any member * * * receiving injuries which alone shall cause the amputation of a limb

(whole hand or foot) shall receive, etc.," the loss of about one-fourth of the foot did not entitle the insured to recover under the provision. *Fuller* v. *Locomotive, etc., Ass'n*, 122 Mich. 548, 81 N. W. 326, 80 Am. St. Rep. 598, 48 L. R. A. 86.

The decision in the instant case virtually holds that the policy was to provide indemnity to the insured against loss of his avocation by reason of impairment of his eyesight. Although it is a well settled rule that an insurance policy is to be construed most strongly against the insurer, yet the language in the instant case seems so clear as to need no construction. To hold that color-blindness is equivalent to the complete and permanent loss of sight of both eyes seems to be a flagrant disregard of the English language, and, in effect, to make a new contract for the parties.

For a discussion of the principles involving a construction of the term "confinement within the house," see 4 VA. LAW REV. 679.

PRINCIPAL AND AGENT—TRAVELING SALESMAN—CONDITIONS ATTACHED.—A traveling salesman, agent of the plaintiff, contracted with the defendant, trustee of a retail liquor business, for the sale of certain goods. It was agreed between the two that the purchaser was to be bound only in his representative capacity as trustee. The agent transmitted the order to his principal, but failed to append the conditions. The order was filled and the purchaser paid part of the purchase money therefor. The principal brought action against the trustee personally for the balance of the purchase price. *Held,* the defendant is not personally liable. *Rothchild Bros.* v. *Kennedy* (Or.), 169 Pac. 102.

In absence of a stipulation absolving him from personal liability, a trustee is bound personally on his contracts for the trust estate. *Hussey* v. *Arnold*, 185 Mass. 202, 70 N. E. 87; *Taylor* v. *Davis*, 110 U. S. 330. And this is so, even though the seller charged the goods to the trading name, and knew that the trustee was purchasing in his representative capacity. *Connally* v. *Lyons*, 82 Tex. 664, 27 Am. St. Rep. 935.

It is an undisputed principle of law that an agent acting within the apparent scope of his authority binds his principal on contracts made with third parties. But it becomes interesting to note the interpretation given by the courts to the apparent authority of agents. The majority decisions hold that, in absence of express authority, a traveling salesman has only authority to solicit orders and transmit them to his principal, and no power to consummate a sale. *L. A. Becker Co.* v. *Clardy*, 96 Miss. 301, 51 South. 211, 23 Am. & Eng. Ann. Cas. 355; *Nolin Milling Co.* v. *White Grocery Co.*, 168 Ky. 417, 182 S. W. 191. An agent who contracts to sell at a price below the list price, in absence of collusion between the agent and purchaser, binds his principal. *Furniture Co.* v. *Board of Education* (Ky.), 38 S. W. 864. However, it seems otherwise if the price is excessively below the list price, so as to put the customer on notice, that the contract is not within the scope of the agent's authority. *Charles Brown Grocery Co.* v. *Beckett* (Ky.), 57 S. W. 458. And an agent with general authority to sell goods cannot agree with the buyer that his principal will receive a quantity of old unsold stock in